

CHAPTER 4

UPDATES ON PRIOR ISSUES & RECOMMENDATIONS

A. CIVILIAN REQUESTS FOR OFFICER IDENTIFICATION

BACKGROUND: In the IPA's 1996 Year End Report, the IPA reported the problem that arose when civilians requested identification from police officers. Some complainants alleged that the officer did not identify himself/herself adequately when requested to do so. Others complained that the officer took retaliatory measures after being requested to give his/her name or badge number. The retaliatory conduct alleged ranged from threats of arrest to unnecessary use of force. The SJPD Duty Manual directs officers to identify themselves in a professional manner, but does not require officers to do so in writing.

The IPA's recommendation was to have the SJPD issue business cards to each officer so that they could use it to identify themselves, and thereby minimize conflict with civilians. The IPA also recommended that the existing process in 1996 for the creation of the business cards, the distribution to the officers, and the dissemination to the public be revised.

UPDATE: In 1997, there were 17 complaints involving officer identification issues, which is four more than the average for the previous three years. These are complaints that may have been avoided if a written standardized process was in place.

Members of the SJPD have suggested that a separate card be created for the purpose of identification. Upon request for identification by a civilian, the officer would fill in the identifying information on the card and give it to the individual who requested it. The IPA previously recommended that business cards be used for identification; however, officers prefer to use their business cards for a more positive purpose.

RECOMMENDATION: It should be mandatory that officers provide their name and badge number in writing to a civilian upon request.

B. NEW COMPUTER SYSTEM

BACKGROUND: To make the sharing of complaint information between the offices more efficient, a new computer link-up between the IPA and the PSCU was studied and designed. With the help of an

outside consultant, police personnel, and city computer data managers, a system was devised and will begin testing in February 1998.

UPDATE: Due to technical difficulties, the link-up was not completed as scheduled. However, the new database is now operational and ready for testing. Training on the new system will begin in February 1998.

C. INTERNET ACCESS

BACKGROUND: In the 1996 Midyear Report, the IPA requested to be added to the City of San José's internet connection.

UPDATE: In May 1997, the IPA's connection to the internet was completed. This connection has enabled the IPA to create it's own web site (<http://www.ci.san-jose.ca.us/ipa/home.html>). The web site includes the 1996 Year End Report and the 1997 Midyear Newsletter. The IPA will be adding the 1997 Year End Report to the site, as well as conforming the site to meet the Americans with Disabilities Act guidelines. The IPA is also creating a process whereby a citizen can file a complaint through the internet. Currently, complainants may use email to contact the IPA and initiate a complaint.

D. ADDITIONAL SPACE AT PSCU

BACKGROUND: A recommendation was made in 1995 to have the PSCU secure additional office space. The space was to serve as an interview room for receiving complaints or for interviewing witnesses and police officers.

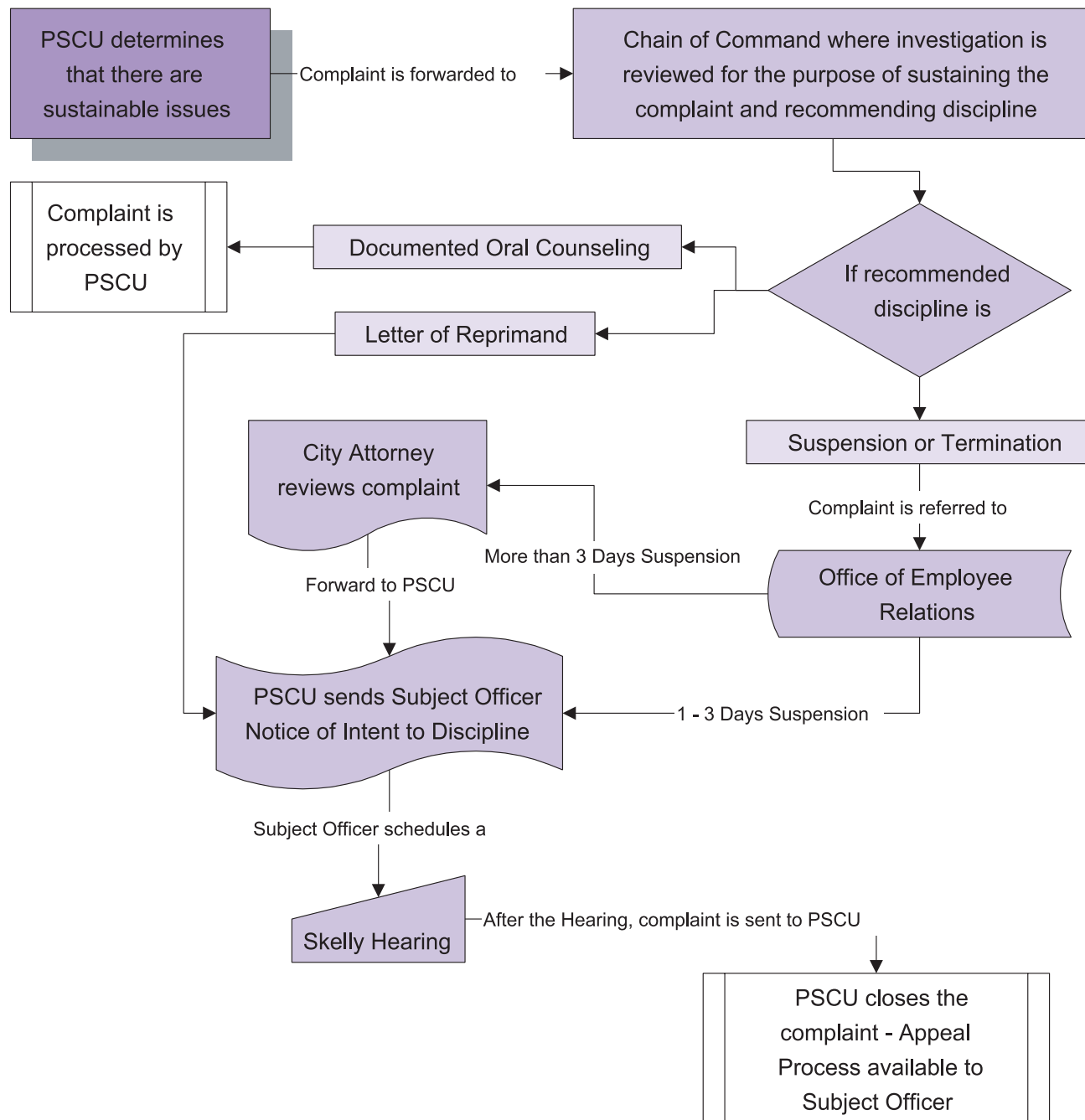
UPDATE: Additional office space has been annexed and is currently being used as an interview room.

E. TIMELINES

During the last four years, different goals have been established for the completion of investigations of complaints. Since the inception of the IPA, the time taken to complete an investigation has been tracked and statistically analyzed. Many changes in receiving, classifying, documenting, and investigating complaints have taken place at the PSCU. There has been a need to increase the number of staff at the PSCU in order to handle the increase in complaints filed and the extra work that the IPA generates. Unfortunately, the goal to complete 100% of all investigations within one year has never been met. While improvements have been made, it is difficult to measure their impact because the timeline in which to complete 100% of the investigations has been extended from 300 to 365 days. One year to complete an uncomplicated investigation is excessive and affects the credibility and integrity of the complaint process.

There are other reasons besides the investigative process that add to the length of an investigation. A study of 41 complaints having a sustained finding was conducted in order to track the path and analyze the length of time these complaints remain at the different departments. However, the information necessary to track a complaint from the time it is sent from the PSCU to another department, and when it is returned to the PSCU is not systematically documented.

In order to illustrate the many steps a complaint with a sustained finding takes after the completion of the investigation, the following flow chart was prepared.

Illustration #1: Sustainable Complaint Route

The forty-one cases which were the subject of this study ranged from as little as 5 days to as much as 890 days from the initial intake to the closure of the case. The following chart illustrates a select sample of ten cases reflecting the days a complaint remained at the different departments or units. Note that in some cases, the file remained longer in other departments than at the PSCU.

Illustration #2: Length of Investigation in Each Department

Case	PSCU	Other Bureau	Chief	Total length of investigation and Administrative Review
1	582	259	37	878 Days
2	591	57	68	716
3	310	118	105	533
4	230	154	64	448
5	56	41	342	439
6	94	177	163	434
7	176	259	173	608
8	228	136	181	545
9	43	301	139	483
10	125	74	152	351

One reason for this delay is that while the PSCU has set goals and operates under timelines, other departments do not. A complaint may stay on someone's desk for an extended period of time before it is processed. There are no set timelines for a complaint to be returned to the PSCU once it is sent to the Chain of Command, the Chief's Office, the Office of Employee Relations, or the City Attorney's Office.

The complainants and subject officers are affected by the uncertainty of the outcome of the complaint process, and both have expressed their dissatisfaction with what are viewed as unreasonable delays. Efforts to reduce the time a complaint remains open are ongoing at the PSCU; however, other departments must also set their own time limits in order to collectively make an impact on this problem.

Another compelling reason why complaints must be completed sooner is that effective January 1, 1998, a law known as the Cardoza Bill (AB 1436), requires that all complaint investigations be completed within one year; otherwise, no discipline can be imposed on the subject officer. Some exceptions are provided under the Cardoza Bill, such as complaints involving a criminal investigation, multi-jurisdictional investigations, multiple subject officers, incapacitation or time waiver by the subject officer. Furthermore, once an investigation is completed, it is sent to the IPA for review. Any requests for additional investigation from the IPA must be completed within this one year limitation.

RECOMMENDATIONS:

1. The timeline to complete the investigation of a complaint, which is not covered by a Cardoza Bill exception, should be reduced from one year to no more than ten months. This ten month period should include the Chain of Command review in order to allow the IPA sufficient time to request additional investigation, if needed, within the required one year time frame.
2. Investigation requested by the IPA of a closed case should be given priority and be completed within the one year time limit.
3. Time limits should be set for every bureau and department involved with the complaint process.
4. A reliable system should be instituted to adequately track complaints once they leave the PSCU.

F. ENTERTAINMENT ZONE POLICING PLAN***1. BACKGROUND:***

In the IPA's 1995 Year End Report, the IPA recommended that the SJPd should review and revise the policies and procedures for off-duty security services performed by the San José police officers. At issue were concerns regarding accountability, negative public perception and the need for better coordination of public safety resources.

To address these concerns, the City created the Entertainment Zone Policing Plan (EZPP). Under this plan, public safety services were to be provided to nightclubs located in the Downtown Entertainment Zone by uniformed, on-duty San José police officers working on an overtime basis effective July 1997. The cost of the program was to be shared by the participating nightclubs and the City, with each employer billed according to an established formula.

Shortly after the program was established, owners and managers of the downtown nightclubs formed a committee called the Entertainment Zone Committee (EZ Committee). Because the EZPP was considered by the EZ Committee to be a by-product of the IPA's recommendation, several meetings have been held with the IPA to address on-going concerns regarding the implementation, policies, and procedures of the EZPP. Many of the issues raised by the EZ Committee pertain to administrative matters (such as the deployment of officers, the program's fee structure and its associated liability issues) and consequently, are outside the purview of the IPA. However, issues related to officer training, community relations and officer performance issues have also been raised. Specifically, the club owners expressed concerns related to:

1. The training of police officers to ensure sufficient knowledge of the particular nuances associated with individual club operations. Club owners have expressed a desire to be involved in the training of the EZPP officers especially with respect to the anticipation and diffusion of minor incidents before they escalate and require enforcement action;

2. The need for an on-going communication between the SJPd and the EZ Committee to effectively resolve issues; and
3. Unfriendly attitudes by officers towards club owners or managers.

2. METHODOLOGY:

The IPA conducted site visits of all nightclubs in the Entertainment Zone on two occasions between the hours of 9:00 p.m. and 3:00 a.m. on a Friday and Saturday night. The IPA staff observed services provided by the EZPP officers from the start of their patrol through the closing of the clubs to the final disbursement of patrons. In addition, the IPA also attended a briefing which was given to all officers working the EZPP prior to the start of their shift.

3. FINDINGS:

- The SJPd is currently revising the training module to afford club owners the opportunity to be directly involved in the training of the EZPP officers as requested.
- On-going adjustments which have improved the quality of the services have occurred in response to feedback from the EZ Committee. It is important that the SJPd continue to meet with the EZ Committee and act on their suggestions for improvement to the EZPP.
- Police personnel have repeatedly requested names of individual officers who have displayed unfriendly attitudes. However, the club owners have been reluctant to provide this information. During the nights that the IPA staff observed the EZPP officers, it was reported that all officers with two exceptions were friendly when approached by the IPA staff. It should be noted that the IPA staff did not identify themselves nor were known to the officers. Other general observations noted were that several officers appeared stoic, avoided eye contact and did not volunteer a greeting. However, if greeted first, officers would respond in kind. As working EZPP assignments is a privilege for officers the SJPd should take aggressive action in removing officers who do not perform in a satisfactory manner. This will require the cooperation of the club owners or management to identify and weed out problem officers.

4. CONCLUSION:

The EZPP has been in existence for only six months. This is not enough time to evaluate the program as a whole. However, the EZPP appears to be fundamentally sound and has a great potential for success. The SJPd has been and should continue to be, responsive to the suggestions from the stakeholders.

The administrative issues, especially those involving the fee structure, should be referred to the City Administration for further review and resolution as part of the Administration's annual report on the performance of the EZPP.